

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b)
Table of Allotments,
FM Broadcast Stations.
(Broken Bow, Oklahoma)

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MM Docket No. 01-209
RM-10224

REPORT AND ORDER
(Proceeding Terminated)

Adopted: September 3, 2003

Released: September 5, 2003

By the Assistant Chief, Audio Division:

1. In response to a Petition for Rule Making filed by Maurice Salsa ("Salsa"), the Audio Division considers herein a *Notice of Proposed Rule Making*¹ proposing the allotment of Channel 285A to Broken Bow, Oklahoma, as that community's second local aural transmission service. Salsa has filed comments expressing his continued interest in applying for Channel 285A if it is allotted to Broken Bow, and stating that if his application is granted, he will construct a station in that community. Entravision Holdings, LLC ("Entravision")² has filed a pleading entitled "Comments and Counterproposal" to which Petitioner has filed reply comments.³ For the reasons stated herein, we shall allot Channel 285A to Broken Bow, Oklahoma.

¹ *Broken Bow, Oklahoma*, 16 FCC Rcd 16002 (M.M. Bur. 2001). This *Notice of Proposed Rule Making* involved proposals for eight communities in MM Docket Numbers 01-209 through 01-216.

² Entravision is the current licensee of Station KTCY(FM). The prior licensee, KTCY Licensing, Inc., filed the "Comments and Counterproposal" herein. Entravision consummated an assignment of Station KTCY's license on August 23, 2002. For the sake of clarity, Entravision is considered to have been the licensee throughout this proceeding.

³ Radio One Licenses, Inc. ("ROL") also filed reply comments in this docket and MM Docket No. 01-216 in the belief that both dockets were related to a proposal by Jeraldine Anderson to allot Channel 232A to Broken Bow, Oklahoma, in MB Docket No. 02-301, which was subsequently dismissed at Ms. Anderson's request. In fact, MM Docket No. 01-209 was not in conflict with MB Docket No. 02-301. In any event, ROL supports Entravision's counterproposal in its reply comments in this proceeding and in its "Comments and Counterproposal" filed in the Wright City, Oklahoma allotment proceeding (MM Docket No. 01-255). ROL however, requests the allotment of Channel 286A to Wright City in lieu of Entravision's request to allot Channel 226A to that city at an alternate transmitter site to Salsa's site for Channel 226A at Wright City. ROL's attempts to amend Entravision's counterproposal here and also in the Wright City proceeding are defective, because ROL did not express any interest in applying for Channel 286A in Wright City, if that channel were allotted to that city. Further, ROL's counterproposal in MM Docket No. 01-255 and its reply comments in this proceeding were filed after the comment due date in this proceeding and need not be considered. See Section 1.420(d) of the Commission's Rules.

2. Entravision's timely-filed counterproposal requests: first, that its Channel 285C1 at Station KTCY(FM), Pilot Point, Texas, be upgraded to Channel 285C0 and second, that Channel 265A be allotted to Broken Bow, Oklahoma in lieu of Salsa's requested Channel 285A. Third, since Charles Crawford's request for Channel 284A at Antlers, Oklahoma, in MM Docket No. 01-269 would conflict with Entravision's counterproposal to upgrade its Channel 285C1 to Channel 285C0, Entravision requests that Channel 227A be added to Antlers, Oklahoma, in lieu of Channel 284A. Fourth, because Maurice Salsa's request that Channel 226A be allotted at Wright City, Oklahoma, in MM Docket No. 01-255 conflicts with Entravision's request to allot Channel 227A at Antlers, Oklahoma, Entravision has identified an alternate transmitter site at Wright City that would allow use of Channel 226A at Wright City and also allow the allotment of Channel 227A at Antlers, Oklahoma.

3. The Entravision proposal for the Station KTCY upgrade to Channel 285C0 at Pilot Point, Texas is short-spaced to the existing Channel 285A allotment at Meridian, Texas. In this regard, a timely counterproposal in MM Docket No. 01-47 proposed the reallocation of Channel 285A from Meridian to Hico, which would remove this conflict. Thus, the Entravision proposal is contingent upon the outcome of a separate proceeding in MM Docket No. 01-47 and cannot be considered in the context of this proceeding. In order to have the Entravision proposal considered at this time, the proposal would have to have been filed by the April 9, 2001 comment due date in MM Docket No. 01-47. Entravision did not file its proposal until October 22, 2001.

4. We conclude that the public interest would be served by the allotment of Channel 285A at Broken Bow, Oklahoma, since it will provide a second local aural transmission service to that community. Channel 285A can be allotted to Broken Bow, Oklahoma, consistent with the requirements of Sections 73.207(b)(1) and 73.315(a) of the Commission's Rules at coordinates of 34-04-41 NL and 94-45-53 WL, with a site restriction of 5.9 kilometers (3.7 miles) northwest of Broken Bow, Oklahoma.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective October 20, 2003, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules IS AMENDED for the community listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Broken Bow, Oklahoma	285A, 291C2

6. A filing window for Channel 285A, Broken Bow, Oklahoma, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

7. IT IS FURTHER ORDERED That the Petition for Rule Making (RM-10224) filed by Maurice Salsa in MM Docket No. 01-209 IS GRANTED.

8. IT IS FURTHER ORDERED That the counterproposal filed by Entravision Holdings, LLC IS DISMISSED as unacceptable for filing.

9. IT IS FURTHER ORDERED, that MM Docket No. 01-209 IS TERMINATED.

10. For further information concerning this proceeding, contact R. Barthen Gorman, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

**John A. Karousos
Assistant Chief, Audio Division
Media Bureau**